



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/237,194	01/26/1999	STEPHEN JAMES BROWN	HERO113397	9517

8791 7590 05/18/2004

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

EXAMINER

KALINOWSKI, ALEXANDER G

ART UNIT	PAPER NUMBER
----------	--------------

3626

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/237,194

Applicant(s)

BROWN, STEPHEN JAMES

Examiner

Alexander Kalinowski

Art Unit

3626

MLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-120 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>29, 31</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 34-120 are presented for examination. Applicant submitted an amendment on 12/5/2003 amending the specification. Applicant submitted an amendment on 3/3/2004 amending independent claims 34, 77 and 120. In light of Applicant's amendment, the Examiner withdraws the grounds of rejection of claims 34-120 based on 35 USC 112(2) and 35 USC 103. However, new grounds of rejection based on 35 USC 103 are established in the instant office action as set forth in detail in the next section below. Since the new grounds of rejection were necessitated by Applicant's amendment, the rejection of claims 34-120 is a final rejection of the claims.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 34-41, 45-50, 52, 54-59, 61-63, 65, 66, 69-75, 77-84, 88-93, 95, 97-102, 104-106, 108, 109, 112-118 and 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al., Pat. No. 4,803,6125 (Fu) in view of Lee, Pat. No. 4,838,275, and Kirk et al., Pat. No. 5,390,238.

Art Unit: 3626

As to Claims 34-41, 45, 49, 50, 54-56, 59, 62, 63, 65, 66, 69-75, Fu discloses a networked health-monitoring system (see Fig. 1), comprising:

a plurality of remote patient sites (see Fig. 1, unit 60), each site including at least one display (i.e. unit 68)(col. 5, lines 53-58);
a data management unit configured to facilitate collection of patient health related data (i.e.. event table and CPU 64)(col. 10, lines 1-14 and lines 28-61);
a memory (i.e. unit 80)(see Fig. 2); and
stored program instructions for use in generating health-monitoring related information on the display (i.e. display unit 68 and software of the home unit)(col. 5, lines 56-57, col. 8, line 17 and col. 12, lines 1-24)
at least one central server connectable for communication with the data management unit at the patient sites (see Fig. 1).

Fu does not explicitly disclose

at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites.

However, Lee discloses at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites (i.e. unit 118a)(see Fig. 1, col. 11, lines 54-56 and col. 13, lines 42-47). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one health care professional computer remotely located

Art Unit: 3626

from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

Fu and Lee do not explicitly disclose

a remotely located computer facility including the at least one central server wherein hardware and software of the central server automatically communicates with the data management units and at least one health care professional computer.

However, Kirk discloses a health support system including a remotely located computer facility including the at least one central server wherein hardware and software of the central server automatically communicates with the data management units and at least one health care professional computer (col. 3, lines 3-11, lines 20-42). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation for the motivation of utilizing a health care support system which economically provides medication control, wellness checking and patient data accumulation and reporting capability (col. 1, lines 53-60).

As to Claim 46, Fu does not explicitly disclose The system of claim 34, wherein the report is standardized.

However, Lee discloses wherein the report is standardized (col. 17, lines 20-40). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report is standardized as disclosed by Lee within Fu for

Art Unit: 3626

the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 47, Fu does not explicitly disclose the system of claim 34, wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received.

However, Lee discloses wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received (col. 13, lines 5-15). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system is configured to allow a health care professional to select which of a plurality of standardized reports is received as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 48, Fu does not explicitly disclose the system of claim 34, wherein the report includes graphs and/or icons.

However, Lee discloses wherein the report includes graphs and/or icons (col. 13, lines 5-16). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes graphs and/or icons as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

Art Unit: 3626

As to Claim 52, Fu does not explicitly disclose the system of claim 34, wherein the report includes displayed formatted statistical information.

However, Lee discloses wherein the report includes displayed formatted statistical information (col. 13, lines 12-17). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes displayed formatted statistical information as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 57, Fu does not explicitly disclose the system of claim 55, wherein the message includes results of a test.

However, Lee discloses wherein the message includes results of a test (i.e. if there are no untoward signs, this is communicated to the patient)(col. 16, lines 39-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes results of a test as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 58, Fu does not explicitly disclose the system of claim 55, wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion.

Art Unit: 3626

However, Lee discloses wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion (i.e. if there are no untoward signs, this is communicated to the patient)(col. 16, lines 39-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 61, Fu does not explicitly disclose the system of claim 55, wherein the message is from the health care professional computer.

However, Lee discloses wherein the message is from the health care professional computer (col. 16, lines 40-43).). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to claims 77-84, 88-93, 95, 97-102, 104-106, 108, 109, 112-118 and 120, the claims are similar in scope to claims 34-41, 45-50, 52, 54-59, 61-63, 65, 66, 69-75 and are rejected on the same basis.

Art Unit: 3626

4. Claim 42, 44, 85 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 34 and 77 above, and further in view of Beckers, Pat. No. 5,019,974.

As to Claim 42, Fu and Lee do not explicitly disclose the system of claim 41, wherein the handheld device is capable of displaying pictorial health-monitoring related information.

However, Beckers discloses wherein the handheld device is capable of displaying pictorial health-monitoring related information (see Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying pictorial health-monitoring related information as disclosed by Beckers within Fu, Lee, and Kirk for the motivation of providing a patient with an individually tailored program of treatment (col. 1, lines 7-14)

As to Claim 44, Fu and Lee do not explicitly disclose The system of claim 42, wherein the handheld device is capable of displaying animated health-monitoring related information.

However, Beckers discloses wherein the handheld device is capable of displaying animated health-monitoring related information (see Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying animated health-monitoring related information as disclosed by Beckers within Fu, Lee and Kirk for the

Art Unit: 3626

motivation of providing a patient with an individually tailored program of treatment (col. 1, lines 7-14).

As to claims 85 and 87, the claims are similar in scope to claims 42 and 44 and are rejected on the same basis.

5. Claims 51, 53, 60, 64, 67 94, 96, 103, 107, 110, and 111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 34 and 77 above, and further in view of Fujimoto, Pat. No. 5,339,821.

As to Claims 51, 53, 60, 64, 67, and 68, Fu, Lee, and Kirk do not explicitly disclose The system of claim 34, wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site.

However, Fujimoto discloses wherein the system is configured to cause the presentation of at least one report on the display at a remote patient (col. 4, lines 48-56). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site as disclosed by Fujimoto within Fu and Lee for the motivation of providing a medical system and apparatus which permits patients to check or measure the condition of a disease at home (col. 1, line 66 – col. 2, line 5).

As to claims 94, 96, 103, 107, 110, and 111, the claims are similar in scope to claims 51, 53, 60, 67, and 68 and are rejected on the same basis.

Art Unit: 3626

6. Claims 43 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 34 and 77 above, and further in view of Examiner's use of Official Notice.

As to Claim 43, Fu, Lee, and Kirk do not explicitly disclose The system of claim 40, wherein the memory is a program cartridge.

However, the Examiner takes official notice that it was well known in the computer arts to use program cartridges to program handheld devices. The motivation was to provide a simple and inexpensive means for providing computer programs that are popular or in demand by a number of users. . It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the memory is a program cartridge for the motivation stated above.

As to claims 86, the claim is similar in scope to claim 43 and is rejected on the same basis.

7. Claims 76 and 119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee and Kirk as applied to claims 40 above, and further in view of Examiner's use of Official Notice.

As to Claim 76, Fu, Lee, and Kirk do not explicitly disclose The system of claim 34, wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user.

Art Unit: 3626

However, the Examiner takes official notice that it was well known in the computer arts to use personal identification numbers (pin) to authorize users to access systems, programs and stored data on computers. The motivation for using pin numbers was to grant access to data or the computer system to authorized users only, particularly sensitive data or information such as patient medical data. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user within Fu, Lee and Kirk for the motivation stated above.

As to claim 119, the claim is similar in scope to claim 76 and is rejected on the same basis.

Response to Arguments

8. Applicant's arguments with respect to claims 34-120 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3626

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Pat. No. 5,331,549 discloses a medical monitoring system.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 9:00 AM to 6:30 PM. In addition, the examiner can be reached on alternate Fridays.

Art Unit: 3626

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (703) 305-9588. The fax telephone number for this group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor, receptionist.

A handwritten signature in black ink, appearing to read "Alexander Kalinowski", written in a cursive style.

Alexander Kalinowski

Primary Examiner

Art Unit 3626

5/14/04